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September 25, 2019

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Via Certified Mail, Return Receipt Requested

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Re: My clients: Shannon Goyette, as the Personal
Representative of the Estate of Jacob Goyette

Date of death: July 13, 2018

Letter of Presentment Pursuant to M.G.L. c. 258

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Dear Leadership of the Acton-Boxborough Regional School District:

I represent Shannon Goyette, as the personal representative of the Estate of Jacob Goyette. Mrs. Goyette, of course, is the mother of Jacob Goyette, who died by suicide on July 13, 2018, due to the negligence of the Acton-Boxborough Regional School District and its agents, servants, employees [the "District"] and/or its independent contractors. This letter is sent, at this time, in accord with the provisions of G.L. c. 258, insofar as that statute may apply to certain claims that may be advanced. To the extent that the maximum sum available under the c. 258 statutory scheme of One Hundred Thousand (\$100,000) Dollars is not offered within the six month statutory time period, suit will be filed against the District and others as appropriate.

Factual Background

Jacob Goyette committed suicide on July 13, 2018. Months after his death, his parents were first advised that personnel at the Acton-Boxborough High School had been informed of concerns about him that were sufficient for him to be referred to an LICSW working at the Acton-Boxborough Regional High School months before his death. While Jacob's parents have been kept in the dark by the District about what precisely was conveyed to the AB personnel at issue, what was done with that information, and whether any proper risk assessment was done in connection with Jacob, our investigation, to date, has filled in some of the blanks. What Jacob's parents do know, is that their son is dead and that no one from the school ever notified them of the concerns or Jacob's referral to the LICSW before his death when their informed intervention would more probably than not have made all the difference.

Jacob was well known to the District and its contractors. He was on a 504 plan, and was known to be suffering from anxiety and ADHD. Notes from High School Counselor I'Esha Thomas reflect that on August 22, 2017 she noted that three of Jacob's grandparents had died in 2017 and that Jacob knew Matt Pierce – another District suicide victim well. As of February-March, 2018, email provided by the District reveals that it was well-known that Jacob had stopped doing his work, was failing classes and had been put in touch with a counselor through his Doctor. In short, it is well-documented that the District knew that Jacob was struggling in various ways in the months leading up to his death.

As you may know, on or around May 30, 2018, concerns about Jacob's well-being were reported to Martha Frost, a contract Social Worker for the District. While we have been informed by counsel for the District that Frost kept no records of the information conveyed to her, our investigation has identified the student who reported the concerns. Her name is [REDACTED]. She reported that on May 30, 2018, she and Jacob were in the "commons." She remembers the date clearly because it was her birthday and she and Jacob were dating at the time. She reported that Jacob was drinking a mixture of vodka and Gatorade out of a Gatorade bottle and that Jacob was drunk and crying. He could not tell her what was wrong as he was very upset. [REDACTED]'s efforts to get Jacob to talk failed and she told him that she was going to approach Martha Frost with the information because she was worried and did not know what else to do. Shortly thereafter, [REDACTED] approached Frost in her office and told Frost that she needed to speak with her. Frost had another student in the office with her and asked whether it could wait or was it important. [REDACTED] advised that it was very important. Frost dismissed the other student and [REDACTED] sat down and told Frost that Jacob was drunk and drinking in the commons. That something was really wrong because he was crying and could not speak to her about what it was. [REDACTED] told Frost that she was worried for Jacob's safety because of the situation and she said she thought he was going to do something stupid and possibly hurt himself. Frost told [REDACTED] not to worry and that Frost would be in

contact with Jacob's parents and the Dean to ensure that they got Jacob the help that he needed. [REDACTED] turned to Frost for help because Frost was [REDACTED] ongoing support resource at the District since the death of one of her best friends.

Neither Frost, nor anyone else on behalf of the District, informed Jacob's parents about these concerns. In the midst of the suicide contagion at Acton-Boxborough, this failure to inform Jacob's parents of this known and reported risk of self-harm is simply inexcusable. Moreover, Frost's failure to properly document the encounter and reported inability to remember the name of the student who reported the concerns to her – when that student was well-known to her – speak volumes about her consciousness of liability that will be fully explored in the forthcoming litigation. Similarly, the fact that the District did not disclose to Jacob's parents the information that it had about him being at risk until months after his preventable death reflects poorly on a District that purports to be trying to get a handle on the risks faced by its students.

Argument

Jacob, as your records will reflect, was a minor at the time concerns about him were reported to the District and/or its contractors. The District was thus acting *in loco parentis* in connection with its actions related to Jacob. In addition, the District had responsibilities to Jacob under section 504 of the Rehabilitation Act, the Massachusetts Tort Claims Act and Massachusetts common law. *See Nguyen v. MIT*, 479 Mass. 436 (2018); *Eisel v. Board of Educ. of Montgomery County*, 324 Md. 376 (1991). While I will not belabor the legal issues here, the SJC's recent endorsement of *Eisel* in a case imposing a duty of care on Massachusetts colleges and universities in connection with preventing suicides by their *adult* students is telling. As explained by the *Eisel* court in the context of minors:

Eisel's claim involves suicide by an adolescent. The negligence relied on is a failure to communicate to the parent the information allegedly possessed by the defendants concerning the child's contemplated suicide, not a failure by the school authorities physically to prevent the suicide by exercising custody and control over Nicole. The theory of Eisel's case is that he could have exercised his custody and control, as parent, over Nicole, had he been warned, and inferentially, that there was nothing known to the counselors about Eisel's relationship with Nicole that would make such a warning unreasonable. [].

Further, we have recognized:

the doctrine that the relation of a school vis a vis a pupil is analogous to one who stands in loco parentis, with the result that a school is under a special duty to exercise reasonable care to protect a pupil from harm, [].

Lunsford v. Board of Educ., 280 Md. 665, 676, 374 A.2d 1162, 1168 (1977) (footnote omitted).

Eisel v. Board of Educ. of Montgomery County, 324 Md. 376 (1991).

As a result of having examined the preventable suicides of many students, all too often it is a failure by school personnel to communicate with those who could prevent such deaths that contribute to them. The *Nguyen* court explicitly recognized this linkage and affirmatively imposed a duty of notification to emergency contacts, which are often parents. Of course, the District's own policies

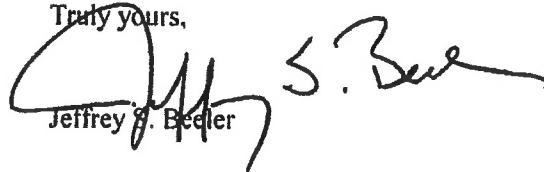
required parental notification here. That is was not done is simply unacceptable.

Be advised that if this matter is not resolved by agreement within the 6 months contemplated by M.G.L. c. 258, claims will be bought against the District. To the extent possible, claims will also be brought against Ms. Frost who appears to have been a contractor for the District. These claims will sound in negligence given the District's failure to act reasonably under the circumstances. Among other things, the claims will be directed at the District's failure to protect Jacob from a known risk of harm, its failure to provide Jacob's parents with the information it had about his risk and its failure to properly implement suicide prevention policies, practices and/or procedures, all of which caused harm.

While Defendants rarely take advantage of the opportunity provided by c. 258 to resolve such claims pre-suit, given the subject matter of this case, I urge the District to avoid the usual course which enriches defense law firms while unnecessarily delaying resolution of valid claims.

Thank you for your kind attention to this matter.

Truly yours,


Jeffrey S. Beeler

JSB:nb

cc: John Davis, Esq.

PLEASE RESPOND TO THE FRAMINGHAM ADDRESS